IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9153 of 1999

Between:

M/s Southern Sea Foods Pvt. Ltd.,
14-37-25/1, Gokhale Road Maharanipeta,
Visakhapatnam, rep.by its authorised representative

..... PETITIONER

AND

1 Union of India Ministry of Commerce
rep.by its Secretary Central Secretariat,
New Delhi
2 The Commissioner of Customs, Customs House
Visakhapatnam
3 The Director Indian Council of Agricultural Research
New Delhi

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of mandamus declaring the action of the respondents in collection the cess @ 0.5% under the Agricultural produce cess Act, 1940 on the value of each export consignment of prawns or Shrimps is illegal, erroneous, without power of authority and ultra vires and Article 265 of the Constitution of India and the Agricultural produce cess Act since prawns/ Shrimps is not included in the schedule appended to the said Act and consequently to direct the respondents not to demand or impose or collect the cess @ 0.5% under the Agricultural Produce Cess Act, 1940 on the value of export of Prawns/ shrimps and refund the cess collected from the petitioner

and pass such other order.

Counsel for the Petitioner: MR.G.MANOHAR

Counsel for the Respondents; MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.NO. 9153 OF 1999

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard learned counsel for the parties. Cess of 0.5% was sought to be imposed on the export of Prawns/Shrimps under the Agricultural Produce Cess Act, 1940 by the impugned action of the respondents on the ground that the Prawns/Shrimps are a different commodity than the fish and what is covered by the schedule to the Act is fish and not Prawns/Shrimps. This question has already been decided by another Division Bench of this Court reported in *Jaya Satya Marine Exports Pvt. Ltd., Bhima Varam Vs. Union of India and others* (1999 (2) ALD 653). Following the same judgment, we allow the writ petition as prayed for. No costs.

BN J.

SAR J.

Dt.10.11.2004

KR

That the Rule Nise has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this the WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR.

.Sd/-

ASST. REGISTRAR

To

1 Union of India Ministry of Commerce
rep.by its Secretary Central Secretariat,
New Delhi
2 The Commissioner of Customs, Customs House
Visakhapatnam
3 The Director Indian Council of Agricultural Research
New Delhi

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